

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

DONNA J. ROBBINS,)	
)	
Plaintiff,)	
)	
vs.)	Case No. CIV-04-1199-M
)	
JO ANNE B. BARNHART,)	
Commissioner of the Social Security)	
Administration,)	
)	
Defendant.)	

ORDER

On July 29, 2005, United States Magistrate Judge Robert E. Bacharach issued a Report and Recommendation in this action brought pursuant to 42 U.S.C. § 405(g) for judicial review of Defendant Commissioner of Social Security Administration's ("Commissioner") final decision to terminate Plaintiff's disability benefits. Magistrate Judge Bacharach recommends that the Commissioner's Motion for Entry of a Judgment Reversing and Remanding for Further Administrative Proceedings be granted, and that this action be reversed and remanded to the Commissioner for further administrative proceedings. He further recommends, over the Commissioner's objection, that Plaintiff's disability benefits be reinstated pending a final administrative decision that her disability has terminated by reason of medical improvement. The parties were advised of their right to object to the Report and Recommendation by August 18, 2005. The Commissioner timely filed an objection. Plaintiff, who does not object to the Report and Recommendation, has filed a response to the Commissioner's objection.

The Commissioner objects only to the recommendation that Plaintiff's disability benefits be reinstated pending further administrative proceedings.* The Commissioner bases her objection on the argument that Magistrate Judge Bacharach relied for his recommendation on the incorrect Social

* Notably, the Commissioner does not object to the recommendation that this action be reversed and remanded for further administrative proceedings. Nor does she object to the recommended scope of the administrative proceedings to be conducted on remand.

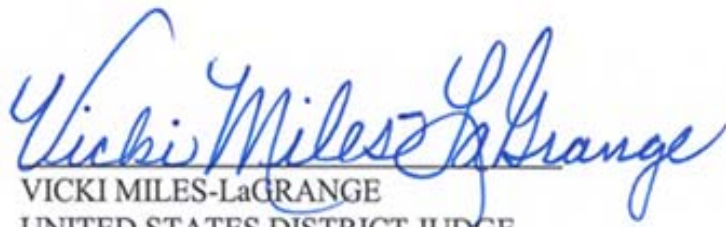
Security regulation. More specifically, she argues that Magistrate Judge Bacharach should have recommended *against* reinstating Plaintiff's disability benefits pursuant to 20 C.F.R. § 404.1597(b), rather than recommending reinstatement pursuant to 20 C.F.R. § 404.1597a(i)(6).

For the reasons stated in the Report and Recommendation, the Court agrees with Magistrate Judge Bacharach's determination that § 1597(b) is inapplicable in this instance. Also for the reasons stated in the Report and Recommendation, the Court agrees with Magistrate Judge Bacharach's recommendation that Plaintiff's disability benefits should be reinstated pursuant to § 1597a(i)(6). Accordingly, the Commissioner's objection is **OVERRULED**.

The Court has carefully reviewed this matter *de novo*. The Court agrees with Magistrate Judge Bacharach's Report and Recommendation in all respects. Accordingly, the Court hereby:

- (1) ADOPTS Magistrate Judge Bacharach's thorough and well-reasoned Report and Recommendation [docket no. 23];
- (2) GRANTS the Commissioner's Motion for Entry of a Judgment Reversing and Remanding for Further Administrative Proceedings [docket no. 21];
- (3) REVERSES the Commissioner's decision to terminate Plaintiff's disability benefits;
- (4) REMANDS this action to the Commissioner for further administrative proceedings consistent with the Report and Recommendation;
- (5) ORDERS the Commissioner to reinstate Plaintiff's disability benefits pending the Commissioner's redetermination of Plaintiff's medical improvement; and
- (6) ORDERS that pursuant to sentence four of 42 U.S.C. § 405(g), judgment be entered in favor of Plaintiff forthwith.

IT IS SO ORDERED this 26th day of August, 2005.


VICKI MILES-LAGRANGE
UNITED STATES DISTRICT JUDGE